

10- R -0184

Entered 05/14/09 sb
CL 09L0358 – LISA CARTER

**CLAIM OF: FULTON LODGE AKA
EFFICIENCY LODGE,
through its attorney,
Jennifer FitzGerald, Esq.
31 Atlanta Street
Marietta, Georgia 30060**

For damages alleged to have been sustained as a
result of a water service account dispute between 2005
and 2009 at 4050 Wendell Drive, SW.

THIS ADVERSED REPORT IS
APPROVED

BY: _____

**JERRY L. DELQACH
DEPUTY CITY ATTORNEY**

ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE: 1/26/10

CHAIR: [Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

FEB 01 2010

FEB 04 2010

ADVERSED BY
CITY COUNCIL

FEB 01 2010



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON
MUNICIPAL CLERK

February 9, 2010

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6030
FAX (404) 658-6273

Ms. Jennifer FitzGerald, Esquire
31 Atlanta Street
Marietta, Georgia 30060

10-R-0184

RE: Fulton Lodge AKA Efficiency Lodge

Dear Ms. FitzGerald

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on February 1, 2010. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400.**

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 09L0358

Date: December 23, 2009

Claimant /Victim FULTON LODGE AKA EFFICIENCY LODGE

BY:(Atty)(Ins.Co.) Jennifer FitzGerald

Address: 31 Atlanta Street Marietta, Georgia 30060

Subrogation: Claim for Property damage \$ 500,000.00 Bodily Injury \$

Date of Notice: 05/11/09 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 2005-2009 Place: 4050 Wendell Drive, SW

Department Watershed Management Bureau: Drinking Water Office:

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges that it sustained damages as a result of a water service account dispute at 4050 Wendell Drive, SW. However, the issues raised in this claim have been resolved.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral

Pictures Diagrams Reports: Police Dept Report Other X

Traffic citations issued: City Driver Claimant Driver

Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental Ministerial X

Improper Notice More than Six Months Other X Damages reasonable

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,



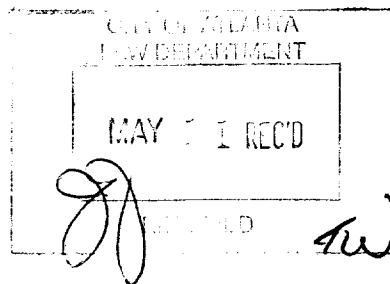
INVESTIGATOR - LISA CARTER

RECOMMENDATION:

Pay \$ Adverse X Account charged: General Fund Water & Sewer Aviation

Claims Manager:  Concur/date 01/07/10

Committee Action: Council Action



May 6, 2009 ENTERED - 5-14-09 - SB
09L0358 - L. CARTER

CARTER
05/13/09
[Signature]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED 71555474410038775834

The Honorable Shirley Franklin
Mayor, City of Atlanta and
City of Atlanta Municipal Court
55 Trinity Avenue SW
Atlanta, GA 30303-3520

ATTN: Law Department

Re: **Ante Litem Notice of Claim**
Our Client: Fulton Lodge AKA Efficiency Lodge
Date of Incident: Ongoing
Address: 4050 Wendell Dr. SW Atlanta, GA 30336

Dear Mayor Franklin:

Please be advised that I represent the above-referenced individual. This notice is being sent pursuant to the requirements of O.C.G.A. § 36-33-5(b) to provide you with the opportunity for adjustment of a potential claim for money damages on account of injuries to persons or property as a result of the following incident:

- a. **Date and Time:** Ongoing since approximately August 2005.
- b. **Place:** Fulton Lodge AKA Efficiency Lodge; 4050 Wendell Dr. SW Atlanta, GA 30336.
- c. **Description of incident:** Commercial property water meter at this location has been broken since 2005. The owners have made several requests for repair of the department to repair the meter. The Department of Watershed Management has agreed to investigate and repair meter on several occasions but, to date, has failed to do so.
- d. **Description of injuries:** Since the water meter has been broken, my clients' water bills have reflected 'estimated usage' rather than actual water usage. Because of the 'estimated' billing, my client has overpaid for water service by approximately \$500,000.00 and possibly more.

MAY 11 2009 *me*

555 Trinity Avenue SW
Atlanta, GA 30303-3520
Re: Fulton Lodge
May 6, 2009
Page 2 of 2

e. **Description of negligence which caused the injury:** Failure to maintain and/or repair the broken water meter despite repeated promises to do so. Failure to accurately ascertain the amount of water used and to adjust water usage bills to reflect same despite several promises to do so.

As this case is in its infancy stages, discovery of further facts and information may lead to other alternative or additional damage claims and/or different theories of liability not presently known. However, please accept this letter as notice of any and all reasonably foreseeable money damage claims that could be brought as a result of the incident described herein.

The information supplied herein is provided for the purposes of allowing you to conduct an investigation of the alleged incident and determine if the claim should be settled without litigation. Upon your receipt of this Notice, please forward it to your legal representatives with my request for them to contact me as soon as possible.

Thank you for prompt attention in this matter.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Jennifer FitzGerald', with a long horizontal line extending to the right.

Jennifer FitzGerald, Esq.

10- R -0184

RCS# 42
2/01/10
2:07 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

B Smith	Y Archibong	Y Moore	Y Bond
NV Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		02-01-10
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 10-O-0118	36. 10-R-0182	
2. 10-O-0119	37. 10-R-0183	
3. 10-O-0120	38. 10-R-0184	
4. 10-O-0121	39. 10-R-0185	
5. 10-O-0122	40. 10-R-0186	
6. 10-O-0123	41. 10-R-0187	
7. 10-O-0126	42. 10-R-0188	
8. 10-O-0127	43. 10-R-0189	
9. 10-O-0128	44. 10-R-0190	
10. 10-O-0129	45. 10-R-0191	
11. 10-O-0220	46. 10-R-0192	
12. 10-O-0221	47. 10-R-0193	
13. 10-O-0057	48. 10-R-0194	
14. 10-O-0135	49. 10-R-0195	
15. 10-R-0134	50. 10-R-0196	
16. 10-R-0162	51. 10-R-0197	
17. 10-R-0227	52. 10-R-0198	
19. 10-R-0164	53. 10-R-0199	
20. 10-R-0165	54. 10-R-0200	
21. 10-R-0166	55. 10-R-0201	
22. 10-R-0169	56. 10-R-0202	
23. 10-R-0170	57. 10-R-0203	
24. 10-R-0171	58. 10-R-0204	
25. 10-R-0222	59. 10-R-0205	
26. 10-R-0228		
27. 10-R-0173		
28. 10-R-0174		
29. 10-R-0175		
30. 10-R-0176		
31. 10-R-0177		
32. 10-R-0178		
33. 10-R-0179		
34. 10-R-0180		
35. 10-R-0181		